



[Billing Code 3190-W2]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2011 Generalized System of Preferences (GSP) Product Review: Inviting Public

Comments on Possible Actions Related to Competitive Need Limitations

AGENCY: Office of the United States Trade Representative

ACTION: Notice and solicitation of comments.

SUMMARY: The Office of the United States Trade Representative (USTR) will accept public comments submitted by April 6, 2012, regarding: (1) potential revocation of competitive need limitations (CNL) waivers; (2) possible *de minimis* CNL waivers; and (3) possible redesignations of articles currently not eligible for GSP benefits because they previously exceeded the CNL thresholds. Full 2011 calendar year import statistics relating to CNLs under the Generalized System of Preferences (GSP) program are now available.

FOR FURTHER INFORMATION CONTACT: Tameka Cooper, GSP Program, Office of the United States Trade Representative, 600 17th Street, NW., Room 422, Washington, DC 20508. The telephone number is (202) 395-6971, the fax number is (202) 395-9674, and the e-mail address is Tameka_Cooper@ustr.eop.gov.

DATES: Public comments are due by 5:00 p.m., Friday, April 6, 2012.

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limitations, *De Minimis* Waivers, and Redesignations

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries (BDCs). The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the “1974

Act”), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Section 503(c)(2)(A) of the 1974 Act sets out the two CNLs. If the President determines that a BDC exported to the United States during a calendar year either: (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year (\$150 million for 2011), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the “50 percent” CNL), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

De minimis waivers: Under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC, if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year (\$20.5 million for 2011).

Redesignations: Under section 503(c)(2)(C) of the 1974 Act, if imports of an eligible article from a BDC ceased to receive duty-free treatment due to exceeding a CNL in a prior year, the President may, subject to the considerations set forth in sections 501 and 502 of the 1974 Act, redesignate such an article for duty-free treatment if imports of that article from that country did not exceed the CNLs in the most recently completed calendar year.

CNL waiver revocation: Under Section 503(d)(5) of the 1974 Act, a CNL waiver remains in effect until the President determines that it is no longer warranted due to changed circumstances. Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432, also provides that, “[n]ot later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary

developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article--having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year (\$225 million in 2011); or exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year.”

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2012, unless granted a waiver by the President. Any CNL-based exclusions, CNL waiver revocations, and decisions with respect to *de minimis* waivers and redesignations will be based on full 2011 calendar year import data.

II. 2011 Import Statistics

In order to provide notice of articles that have exceeded the CNLs for 2011 and to afford an opportunity for comment regarding: (1) the potential revocation of waivers subject to the CNL waiver thresholds for 2011, (2) potential *de minimis* waivers, and (3) redesignations. Lists of relevant products are posted on the USTR web site at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-4> under the title “2011 GSP Annual Product Review: Import Statistics Relating to Competitive Need Limitations, Potential Revocations, *De Minimis* Waivers, and Product Redesignations.” These lists can also be found at www.regulations.gov in Docket Number USTR-2011-0015. Full 2011 calendar year data for individual tariff subheadings may also be viewed on the web site of the U.S. International Trade Commission at <http://dataweb.usitc.gov>.

The lists available on the USTR web site contain, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC country of origin, the value

of imports of the article for the 2011 calendar year, and the percentage of total imports of that article from all countries accounted for by imports from the relevant BDC.

The computer-generated lists published on the USTR web site are for informational purposes only. They may not include all articles to which the GSP CNLs may apply. Each interested party is advised to conduct its own review of 2011 import data with respect to the possible application of the GSP CNL provisions.

List I on the USTR web site shows GSP-eligible articles from BDCs that exceeded a CNL by having been exported in excess of \$150 million, or in a quantity equal to or greater than 50 percent of the total U.S. import value, in 2011. These products will be removed from eligibility for GSP for the subject countries on July 1, 2012, unless the President grants a waiver for the product for the subject country in response to a petition filed by an interested party. Such petitions for CNL waivers must have been submitted earlier in the 2011 GSP Annual Review. (See 76 FR 67531 and 77 FR 10034.) The last column in List I shows those products for which petitions have been accepted and are now under review.

List II identifies GSP-eligible articles from BDCs that are above the 50 percent CNL, but that are eligible for a *de minimis* waiver of the 50 percent CNL. Articles eligible for *de minimis* waivers are automatically considered in the GSP annual review process, without the filing of a petition.. List III shows GSP-eligible articles from certain BDCs that are currently not receiving GSP duty-free treatment, but that may be considered for GSP redesignation based on 2011 trade data and consideration of certain statutory factors, as described above. List IV shows articles subject to CNL waiver revocation based on the provisions of Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109–432.

Recommendations to the President on *de minimis* waivers, redesignations, and revocation of waivers will be made as part of the 2011 GSP annual review process, and public comments (including comments in support of or in opposition to granting *de minimis* waivers, redesignations, and revocation of CNL waivers) are invited in accordance with the Requirements for Submissions below.

III. Public Comments

Requirements for Submissions

Written comments submitted in response to this notice must be submitted electronically by 5:00 p.m., Friday, April 6, 2012 using www.regulations.gov, docket number USTR-2011-0015. Instructions for submitting business confidential versions are provided below. Hand-delivered submissions will not be accepted. Submissions must be submitted in English to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, by the deadline set forth in this notice.

All submissions for the GSP Annual Review must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are available on the USTR Web site at <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/gsp-program-inf>. Any person or party making a submission is strongly advised to review the GSP regulations as well as the GSP Guidebook, which is available at the same link.

To make a submission using www.regulations.gov, enter docket number USTR-2011-0015 in the “Search” field on the home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting “Notice” under “Document Type” in the section on the left hand side of the search-

results page, and click on the link entitled “Submit a Comment” on the right-hand side of the page under the heading “Actions.” The www.regulations.gov web site offers the option of providing comments by filling in a “Type Comment” field or by attaching a document using the “Upload file(s)” field. Given the detailed nature of the information sought by the GSP Subcommittee, it is preferred that submissions be provided in an attached document. When attaching a document, type (1) 2011 GSP Annual Product Review; (2) the product description and related HTS tariff number; (3) “See attached” in the “Type Comment” field on the online submission form, and indicate on the attachment that the document is, “Written Comments” Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Each submitter will receive a submission tracking number upon completion of the submissions procedure at www.regulations.gov. The tracking number will be the submitter’s confirmation that the submission was received into www.regulations.gov. The confirmation should be kept for the submitter’s records. USTR is not able to provide technical assistance for the web site. Documents not submitted in accordance with these instructions may not be considered in this review. If unable to provide submissions as requested, please contact the GSP Program at USTR to arrange for an alternative method of transmission.

Business Confidential Submissions

A person seeking to request that information contained in a submission from that person be treated as business confidential information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such. The submission must be

marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, “Business Confidential” must be included in the “Type Comment” field.

A person submitting public and business confidential submissions must submit each of them separately in the appropriate docket at www.regulations.gov: one submission containing the clearly-marked business confidential information, and a separate submission containing the public version of the submission, indicating where confidential information has been redacted.

Public versions of all documents relating to the 2011 Annual Review will be made available for public viewing in docket USTR–2011–0015 at www.regulations.gov upon completion of processing and no later than one week after the due date.

William Jackson,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences,
Office of the U.S. Trade Representative

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